
(2015) 07 SC CK 0001

In the Supreme Court Of India

Case No : Contempt Petition (C) No. 374 of 2014 in Cri. A. No. 1834 of 2013

Sita Ram

APPELLANT

Vs

Balbir @ Bali

RESPONDENT

Date of Decision : 08-07-2015

Acts Referred:

Contempt of Courts Act, 1971 — Section 2(a)

Citation : (2017) 2 SCC 456 : (2017) 2 SCCri 88

Hon'ble Judges : Mr. T.S. Thakur and Mrs. R. Banumathi, JJ.

Bench : Division Bench

Advocate : Mr. Rishi Malhotra, Advocate, for the Petitioners; Mr. Rahul Verma, Advocate, Gen. Dr. Monika Gusain and Mr. R. Balasubramanian, Advocates, for the Respondents

Final Decision : Allowed

Judgement

1. Heard.

2. Respondent-Balbir @ Bali is being prosecuted for offences punishable under Sections 109, 114, 148, 302, 307, 323 and 325 read with Section 149 of the IPC and Section 25 of the Arms Act. He was by an order dated 11th February, 2013 passed by the High Court of Punjab and Haryana granted bail.

3. Aggrieved by the said order of the High Court, Petitioner-Sita Ram, who happens to be the brother-in-law of the deceased filed Criminal Appeal No. 1834 of 2013 in this Court which was allowed by this Court by an order dated 24th October, 2013, the order granting bail to the respondent-Balbir @ Bali set aside and the respondent-Balbir directed to surrender to custody forthwith. Despite the said direction however the respondent did not surrender. This led to the filing of the present Contempt in which notices were issued to the respondents on 29th August, 2014.

4. By our order dated 19th January, 2015 we had directed the Senior Superintendent of Police, Rohtak Range, to verify whether the respondent-Balbir

was admitted to any hospital and to file a report regarding his medical condition if he was indeed hospitalized anywhere in the State of Haryana. That direction was issued on account of a statement said to have been made by the son of the respondent-Balbir before the police that the respondent was admitted in PGIMS, Rohtak, and later at Medicity Medanta at Gurgaon and eventually in Private Hospital Dr. Sachdev Pvt. Ltd., DLF Phase-II, M.G. Road, Gurgaon, for treatment.

5. When the matter came up again before us on 24th April, 2015, an affidavit was filed by Mr. Shashank Anand, I.P.S., Superintendent of Police, Rohtak, from a reading whereof it appeared that the respondent-Balbir was an indoor patient in "Privat Hospital Dr. Sachdev Pvt. Ltd." since 11th April, 2014. The affidavit further stated that ASI Jaideep Singh had been directed to visit the hospital for verification of the medical condition and also to verify whether he was still undergoing treatment as an indoor patient. The affidavit went on to state that ASI Jaideep Singh had verified the certificate issued from the hospital and found the same to be correct. He also found that the respondent was admitted to the said hospital and that a guard had been posted by the Office of the Commissioner of Police, Gurgaon, to take respondent no.1-Balbir into custody as and when he was discharged from the hospital. This Court taking note of the circumstances passed the following order :

"Respondent no.1 it appears was admitted to "Privat Hospital Dr. Sachdev Pvt. Ltd." on 11th April, 2014. He has continued in the hospital ever since then although from a reading of the certificate he is now asymptomatic and comfortable. From the documents placed on record, we are prima facie of the view that the hospital, aforementioned, is providing some kind of medical asylum to respondent no. 1 who has, despite the direction of this Court, failed to surrender to custody. The whole purpose of his continued admission appears to avoid arrest of respondent no. 1. The pretence of an ailment cannot prevent the law taking its own course. We are in the circumstances inclined to direct the personal presence of the Superintendent of Police, Rohtak, and Dr. Munish Prabhakar, Medical Director, Private Hospital, Gurgaon, who shall file an affidavit and explain why :

(1) Respondent No. 1 has not been taken into custody despite an order of arrest and medical certificate dated 26th March, 2015 issued by the hospital which declares him asymptomatic.

(2) The hospital has not formally discharged respondent no. 1 if he is otherwise fit and does not require any further hospitalization.

(3) The Medical Director shall also place on record details about the medical bills raised against respondent no.1 from the date of his admission till date and the amount paid towards the same by the patient or anyone on his behalf."

6. An affidavit has, pursuant to the above directions, been filed by Dr. Munish Prabhakar, Medical Director, Private Hospital, Gurgaon, as also by Mr. Shashank Anand, Superintendent of Police, Rohtak, Haryana. According to the affidavit filed

by Dr. Munish Prabhakar, who is present in-person, respondent-Balbair was admitted to Private Hospital on 11th April, 2014 and remained admitted till 1st May, 2015. A total amount of Rs.36,59,459/- had, during this time, accumulated towards the cost of treatment etc. out of which Rs.7,00,000/- was received by the hospital in cash from the patient leaving an amount of Rs.29,58,459/- outstanding and payable by him.

7. Mr. R. Balasubramanian, learned counsel appearing for Dr. Munish Prabhakar, argued that respondent-Balbair had issued a cheque for Rs.5,00,000/- towards part payment of the outstanding balance which cheque has been dishonoured when presented to the Bank for payment. He further states on instructions that a complaint under Section 138 of the Negotiable Instrument Act has been instituted against the respondent-Balbair apart from issuing a notice to him claiming payment of the balance amount.

8. The affidavit filed by Mr. Shashank Anand, Superintendent of Police, Rohtak, Haryana, on the contrary, suggests that although the police had been approaching the hospital for custody of the respondent upon his discharge the doctors had repeatedly declined to oblige.

9. From the versions presented to us about the circumstances in which respondent-Balbair continued to evade arrest by the police on account of his prolonged admission to the hospital, we are prima facie of the view that an appropriate enquiry is called for in order to bring the truth to light especially with a view to finding out whether the hospital had become a privy to the attempt of the respondent to somehow prevent the law from taking its course. The fact that the respondent remained admitted to the hospital concerned for a long period without so much as paying the amount claimed by the hospital shows that the admission of the respondent to the hospital may not have been an innocent act. We do not for the present wish to say anything further at this stage lest it causes prejudice to any party. All that we need mention is that, in our opinion, the appropriate course would be to direct a proper inquiry into the circumstances in which the respondent-Balbair continued to avoid arrest and escape from the long arms of law with or without the help of the hospital concerned.

10. We accordingly direct the Director of Central Bureau of Investigation (CBI) to suitably nominate a senior officer to conduct an inquiry into the circumstances in which the respondent was admitted to the Private Hospital Dr. Sachdev Pvt. Ltd. and also to report whether there was any criminality attached to the action of the management of the hospital or on the part of the doctors concerned in granting a prolonged admission to the respondent with the object of protecting the respondent from being arrested and committed to jail. We hope and trust the officer concerned completes the inquiry expeditiously and submits a report to this Court within a period of two months from today.

11. Post immediately after submission of the report.

12. The Registry is directed to forward a copy of this order and copies of the

earlier orders passed by this Court as also the affidavits filed by Dr. Munish Prabhakar, Medical Director, Private Hospital, Gurgaon and Mr. Shashank Anand, I.P.S., Superintendent of Police, Rohtak, to the Director of Central Bureau of Investigation for necessary action.

13. Dr. Munish Prabhakar, Medical Director, Private Hospital, Gurgaon shall remain present on the next date of hearing also. Personal presence of the Superintendent of Police, Rohtak, is, however, dispensed with for the present.